

CHARTER

SECTION 1. CITY CONTINUED AS BODY CORPORATE; NAME; GENERAL POWERS, LIABILITY, ETC.

The inhabitants of the City of Winchester, within the boundaries as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate by the name of the City of Winchester for all purposes for which cities and towns are incorporated in this Commonwealth; shall continue to be a body politic in fact and in name, under the style and name of the City of Winchester, and as such shall have, exercise and enjoy all the rights, immunities, powers, and privileges, and be subject to all the duties and obligations incumbent upon and pertaining to said city as a municipal corporation; provided, that the said City of Winchester shall be and continue liable for all the existing indebtedness, whether funded or floating, outstanding in the name of the City; and the said City of Winchester may sue in its corporate name on all bonds, notes, accounts or contracts payable to the City and under the aforesaid name it shall have perpetual succession; may use a corporate seal; may sue and be sued; may acquire property within or without its boundaries for any municipal purpose, in fee simple or lesser interest or estate, by purchase, gift, devise, lease or condemnation, and may sell, lease, hold, manage and control such property as its interest may require; and, except as prohibited by the Constitution of Virginia or restricted by this charter, the City of Winchester shall have all municipal powers, functions, rights, privileges and immunities of

any name or nature whatsoever, and it now appearing that the City of Winchester, having a population in excess of ten thousand, is, under the laws now existing in the State of Virginia, a city of the first class, it shall enjoy all of the rights, privileges and immunities of a city of that class now authorized under the constitution and statutes of the State of Virginia or that might hereafter be authorized by any amendment thereto.

Editor's note--The Charter is set out herein as enacted by Section 1 of Chapter 39, 1932 Acts of the General Assembly (approved February 20, 1932), as amended. Amendments have been worked into their proper places and are indicated by history notes appearing in parentheses () at the end of the amended sections. The absence of such a note indicates that the section is derived, unamended, from Acts 1932, Chapter 39. Any words appearing in brackets [] were added by the editor for clarity.

Sections 2, 3 and 4 of Acts 1932, Chapter 39, read as follows:

"2. Nothing in this charter shall be construed as precluding the City of Winchester from hereafter adopting by the procedure set forth in the present Code of Virginia and any amendments thereto, one of the several plans of government now available for cities of the first class.

"3. If any of the provisions of this charter are hereafter declared to be unconstitutional by any court of competent jurisdiction, it shall not affect any of the other provisions of this charter.

"4. An emergency existing due to the transition of the City of Winchester from a city of the second class to a city of the first class, this charter shall be in effect from the date of its passage."

WINCHESTER CODE

SECTION 1.01. ASSESSMENT AND COLLECTION OF LICENSES AND TAXES.

In addition to the powers granted by other sections of this charter the City shall have the power to raise annually by taxes and assessments in the City such sums of money as the council shall deem necessary to pay the debts and defray the expenses of the City, in such manner as the council shall deem expedient, provided that such taxes and assessments are not prohibited by the laws of the Commonwealth. In addition to, but not as a limitation upon, this general grant of power the City shall, when not prohibited by the laws of the Commonwealth, have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools, and a capitation tax not exceeding one dollar per annum on each resident of the Commonwealth within the limits of the City; to levy and collect taxes for admission to other charge for any public amusement, entertainment, performance, exhibition, sport or athletic event in the City, which taxes may be added to and collected with the price of such admission or other charge; to levy on and collect taxes from purchasers of any public utility service used within the City, which taxes may be added to and collected with the bills rendered purchasers of such service; to require licenses, prohibit the conduct of any business or profession without such a license, require taxes to be paid on such licenses in respect of all businesses and professions which cannot, in the opinion of the council, be reached by the ad valorem system; and to require licenses of resident owners of vehicles of all kinds for the privilege of using the streets, alleys and other public places in the City, require taxes to be paid on such licenses and prohibit the use of streets, alleys and other public places in the City without such license; provided, however, that nothing herein contained shall be construed as permitting the City to levy and collect directly or indirectly a tax on payrolls. (Acts 1954, Ch. 85, §1)

SECTION 1.02. ACQUISITION OF PROPERTY FOR PUBLIC PURPOSES.

(a) *Eminent domain.* The City is hereby authorized to acquire within the City by condemnation proceedings lands, buildings, structures and personal property or any interest, right, easement or estate therein, of any person or corporation, whenever in the opinion of the council a public necessity exists therefore, which shall be expressed in the resolution or ordinance directing such acquisition, and whenever the City cannot agree on terms of purchase or settlement with the owners of the subject of such acquisition because of incapacity of such owner, or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because the owner or some one of the owners is a nonresident of the State and cannot with reasonable diligence be found in the State or is unknown.

Such proceedings may be instituted in the corporation court of the City of Winchester. The court or the judge thereof, shall appoint five disinterested freeholders any three of whom may act as commissioners as provided by law.

CHARTER

Editor's note--The corporation court is now the circuit court.

(b) *Alternative Procedures in Condemnation.* The City may, in exercising the right of eminent domain conferred by subsection (a) make use of the procedure prescribed by the general law of the Commonwealth as modified by subsection (a) or may elect to proceed as hereinafter provided. In the latter event, the resolution or ordinance directing acquisition of any property, as set forth in the preceding section, shall provide therein a lump sum the total funds necessary to compensate the owners thereof for such property to be acquired or damaged. Upon the adoption of such resolution or ordinance the City may file a petition in the clerk's office of a court enumerated in the preceding section, having jurisdiction of the subject, which shall be signed by the city manager and set forth the interest or estate to be taken in the property and the uses and purposes for which the property or the interest or estate therein is wanted, or when property is not to be taken but is likely to be damaged, the necessity for the work or improvement which will cause or is likely to cause such damage. There shall also be filed with the petition a plat of a survey of the property with a profile showing cuts and fills, trestles and bridges, if any, and a description of the property which, or an interest or estate in which, is sought to be taken or likely to be damaged and a memorandum showing names and residences of the owners of the property, if known, and showing also the quantity of property which, or an interest or estate in which, is sought to be taken or which will be or is likely to be damaged. There shall be filed also with said petition a notice directed to the owners of the property, if known, copies of which shall be served on such owners or tenants of the freehold of such property, if known. If the owner or tenants of the freehold be unknown or a nonresident of the State or cannot with reasonable diligence be found in the State, or if the residence of the owner or tenant be unknown, he may be proceeded against by order of publication which order, however, need not be published more than once a week for two successive weeks and shall be posted at a main entrance to the courthouse. The publication shall in all other respects conform to §§8-71, 8-72 and 8-76 (now 8.01-316, 8.01-317 and 8.01-319) of the Code of Virginia.

Upon the filing of said petition and the deposit of the funds provided by the council for the purpose in a bank or the credit of the court in such proceedings and the filing of a certificate of deposit therefore, the interest or estate of the owner of such property shall terminate and the title to such property or the interest or estate to be taken in such property shall be vested absolutely in the City and such owner shall have such interest or estate in the funds so deposited as he had in the property taken or damaged and all liens by deed of trust, judgment or otherwise upon said property or estate shall be transferred to such funds and the City shall have the right to enter upon and take possession of such property for its uses and purposes and to construct its works or improvements. The clerk of the court in which such proceeding is instituted shall make and certify a copy of the petition, exhibits filed therewith, and orders, and deliver or transmit the same to

WINCHESTER CODE

the clerk of the court in which deeds are admitted to record, who shall record the same in his deed book and index them in the name of the person or persons who had the property before and in the name of the City, for which he shall receive the same fees prescribed for recording a deed, which shall be paid by the City.

If the City and the owner of property so taken or damaged agree upon compensation therefore, upon filing such agreement in writing in the clerk's office of such court the court or judge thereof in vacation shall make such distribution of such funds as to it may seem right, having due regard to the interest of all persons therein whether such interest be vested, contingent or otherwise, and to enable the court or judge to make a proper distribution of such money it may in its discretion direct inquiries to be taken by a special commissioner in order to ascertain what persons are entitled to such funds and in what proportions and may direct what notice shall be given to the making of such inquiries by such special commissioner.

If the City and the owner cannot agree upon the compensation for the property taken or damaged, if any, upon the filing of a memorandum in the clerk's office of said court to that effect, signed by either the City or the owner, the court shall appoint commissioners provided for in §25-12 (now 25-46.20) of the Code of Virginia or as provided for in subsection (a) hereof, and all proceedings thereafter shall be had as provided in §§25-12 through 25-38 (now 25-46.20, *et seq.*) or §§33-59 through 33-67 (now 33.1-98 - 33.1-113) of the Code of Virginia insofar as they are then applicable and are not inconsistent with the provisions of this and the preceding section, and the court shall order the deposit in bank to the credit of the court of such additional funds as appear to be necessary to cover the award of the commissioners or shall order the return to the City of such funds deposited that are not necessary to compensate such owners for property taken or damaged. The commissioners so appointed shall not consider improvements placed upon the property by the City subsequent to its taking nor the value thereof nor the enhancement of the value of said property by said improvements in making their award.

(c) *Enhancement in value when considered.* In all cases under the provisions of subsection (b) hereof, the enhancement, if any, in value of the remaining property of the owner by reason of the construction or improvement contemplated or made by the City, shall be offset against the damage, if any, resulting to such remaining property of such owner by reason of such construction or improvement, provided such enhancement in value shall not be offset against the value of the property taken, and provided further, that if such enhancement in value shall exceed the damage there shall be no recovery over against the owner for such excess.

(d) *Unclaimed funds in condemnation cases.* Whenever any money shall have remained for five years in the custody or under the control of any of the courts enumerated in subsection (a) hereof, in any condemnation proceeding instituted therein by the City, without any claim having been asserted thereto such court

CHARTER

shall act in accordance with §§8-746 and 8-747 (now 8.01-602 and 8.01-603) of the Code of Virginia. (Acts 1954, Ch. 85, §1)

SECTION 1.03. POLICE AND WELFARE POWERS.

The City shall have power to exercise full police powers and to enact any ordinances and regulations to preserve and further the public peace, order, health, morality, safety, security and welfare of its inhabitants, provided such ordinances and regulations are not inconsistent with this charter or prohibited by the general laws of the Commonwealth. (Acts 1954, Ch. 85, §1)

SECTION 2. ENUMERATED POWERS NOT EXCLUSIVE; MANNER OF EXERCISING POWERS.

The enumeration of particular powers by this charter shall not be held or deemed to be exclusive, but, in addition to the powers enumerated therein, employed thereby, or appropriated to the exercise thereof, it is intended that the City of Winchester shall have, and may exercise, all powers which, under the Constitution of Virginia, it would be competent for this charter specifically to enumerate. All powers of the city, whether express or implied, shall be exercised in the manner prescribed by this charter, or, if not prescribed therein, then in the manner provided by ordinances or resolutions of the council.

SECTION 3. ADMINISTRATION OF THE CITY; OFFICERS ENUMERATED.

The administration and government of said city shall be vested in a mayor and a board called the common council of Winchester, and such other boards and offices as are now, or hereafter may be provided for. The offices of said corporation shall be a mayor, judge of the corporation court, clerk of the corporation court, treasurer, commissioner of the revenue, attorney for the Commonwealth, city sergeant, a justice of the peace at large, a police justice, twelve councilmen, and such other offices as are now provided by general ordinances of the City of Winchester and as hereafter may be provided for and elected by the common council.

Editor's note--The references above to the corporation court and justices should be considered in light of Code of Virginia, Titles 16.1 and 17. See also §24 of this Charter. The office of city sergeant has been abolished by Code of Virginia, §15.1-796.1. As to city sheriff, see Code of Virginia, §15.1-796.

SECTION 3.01. OFFICE OF VICE-MAYOR.

The common council may by ordinance create the office of vice-mayor who shall act in all official matters of the city in the absence of the mayor. The vice-mayor shall be a

WINCHESTER CODE

member of the common council and shall be elected by the common council for a term of one year. In the absence of the mayor the vice-mayor shall have, possess and exercise the same rights and powers and be subject to the same duties and limitations as are provided by law for the office of mayor; provided, however, that, in the event the office of mayor becomes vacant, the vice-mayor shall only act during the interim until a new mayor is elected in the manner provided by §23 of this charter. (Acts 1954, Ch. 85, §1)

SECTION 4. COMPOSITION, ELECTION, TERMS, ETC., OF COUNCIL.

Except as otherwise provided in this charter, all powers of the city shall be vested in a mayor and city council. The general elections held in the City in 2006 shall be held on the first Tuesday after the first Monday in November 2006, and every two years thereafter. Beginning in the 2006 general elections, there shall be four wards in the city with each ward electing two members from the territory of the ward in the manner provided in this section, and the mayor elected at-large. In the November 2006 general elections, four members shall be elected to the council, one from each of four wards described in Sections 7-2 and 7-3, 7-3A, and 7-3B of the Code of the City of Winchester. Each of the four city council members elected in 2006 shall be elected to a term of office of four years, and that term of office shall begin on the first day of January following their election. Thereafter, in the 2008 elections, four members shall be elected to the city council, one from each of the four wards described in Sections 7-2, 7-3, 7-3A, and 7-3B of the Code of the City of Winchester. The term of office of the members of the council and the mayor shall be for a period of four years, with council positions staggered such that four members of the council shall be elected every two years beginning in 2006. Council members elected in the 2002 elections whose terms expire in 2006 shall serve until their successors in office have been elected in the November 2006 general elections and until their successors in office begin their term of office. Council members elected in the 2004 elections whose terms expire in 2008 shall serve until their successors in office have been elected in the November 2008 general elections and until their successors in office begin their term of office. If a vacancy occur in the council, it shall be filled in accordance with §23 of this charter. Members of the council shall be qualified electors of the city and shall not hold any other public office. A member of the council ceasing to possess any of the qualifications specified in this section, or convicted of a felony or of a misdemeanor involving moral turpitude while in office, shall immediately forfeit such office. The mayor, council members and all other officials elected by the vote of the people shall serve out the present term for which they have been elected as specified above, and no change (shall be) made in the compensation of salaried and fee officials during their present term of office. The mayor shall be a member of the council, with voting powers of a council member, but the mayor shall have no veto powers. (Ord. No. 035-2004, 8-10-05) (Acts 2005, Ch. 626)

SECTION 5. POWERS AND DUTIES OF COUNCIL; APPOINTMENT, POWERS, ETC., OF CITY MANAGER.

CHARTER

(a) Council shall have, possess and exercise the general management of the affairs of the city, and shall exercise and perform all the powers and duties now authorized or imposed by law or special act, in so far as they are not inconsistent with this charter.

(b) Council shall at its first meeting, or as soon thereafter as practicable, determine what appointive officers, in addition to any specifically provided for in this charter, are necessary for the proper and efficient administration of the city, and shall prescribe the qualifications, powers and duties of such officers and fix their compensation; and shall forthwith, or as soon as desirable, make appointments to fill such offices.

(c) Council shall have the right to elect or appoint the chiefs or heads of departments, and all such other officials and employees authorized by this charter or general law, and remove the same at pleasure; except as to those officers provided for by the general law of Virginia, or by any special act, and shall have the right to abolish any office created by them. Council may, by a majority vote of all members elected to the council, abolish any board or boards and perform all of the duties now performed by them.

(d) Council is hereby empowered to employ a person, who may or may not be a resident or qualified voter of this city or this State, to be known as "city manager", and who shall, under the control of the council, have the general charge and management of the administrative affairs and work of the city and who shall perform such other duties as may be required of him. He shall receive such salary as shall be allowed him by such council. Council and its members shall deal with that portion of the administrative service for which the manager is responsible, solely through the manager, except for purposes of inquiry.

The city manager shall be appointed for such time as the council shall provide.

(e) Council is hereby empowered to employ a city attorney, and may employ or contract for the services of one or more assistants to the city attorney. Each such person shall be an attorney at law licensed to practice under the laws of the Commonwealth. The city attorney shall be the legal adviser of the council, the city manager, the departments, boards, commissions, and agencies of the city, including the school board, in all matters affecting the interest of the city, and shall perform such other duties as may be required of him by the council. He shall be authorized to represent the city in all legal proceedings, including the prosecution of violations of city ordinances. The city attorney may authorize any assistant city attorney or special counsel to perform any of the duties imposed upon him in this charter. (Ord. No. 041-87, 12-08-87)

WINCHESTER CODE

SECTION 5.01. BIENNIAL BUDGET.

(a) All officers and heads of departments, offices, divisions, boards, commissions and agencies of the City of Winchester shall, on or before the first day of April of each odd-numbered year, beginning in 2005, prepare and submit to the city manager an estimate of the amount of money deemed to be needed during the ensuing two fiscal years for his department, office, division, board, commission or agency. If such person does not submit an estimate in accordance with this section, the city manager shall prepare and submit an estimate for that department, office, division, board, commission or agency. The city manager shall prepare and present to council a budget for informative and fiscal-planning purposes only, containing a complete, itemized and classified plan of all contemplated expenditures and all estimated revenues and borrowings for the city for the ensuing two fiscal years. The council shall consider and approve such budget in such final form as a majority of the councilors shall agree, no later than the date set for the beginning of the fiscal year and shall fix a tax rate for the two ensuing fiscal years at that time.

(b) The fiscal year for the city shall begin on the first day of July of each year.

(c) Opposite each item in the contemplated expenditures, the budget shall show in separate parallel columns the aggregate amount appropriated during the preceding two fiscal years, the amount expended during such two years, the aggregate amount appropriated and expected to be appropriated during the current fiscal year, and the increases or decreases in the contemplated expenditures for the ensuing two fiscal years as compared with the aggregate amount appropriated or expected to be appropriated for the current year.

This budget shall be accompanied by:

1. A statement of the contemplated revenue and disbursements, liabilities, reserves and surplus or deficit of the city as of the date of the preparation of the budget; and

2. An itemized and complete financial balance sheet for the city at the close of the last preceding fiscal year.

(d) The council is authorized to budget for and include in its budget a reasonable reserve for contingencies.

(e) A brief synopsis of the budget which, except in the case of the budget for the Winchester City Schools, shall be for informative and fiscal planning purposes only, shall be published once in a newspaper having general circulation in the city, and notice given of one or more public hearings, at least seven days prior to the date set forth for the hearing, at which any citizen of the City of Winchester shall have the right to attend and state his views thereon. The hearing shall be

CHARTER

held at least seven days prior to the approval of the budget; however, with respect to the budget of the city schools, such hearing shall be held at least seven days prior to the approval of that budget as provided in §22.1-93 of the Code of Virginia. The city council may recess or adjourn from day to day or time to time during such hearing or hearings. The fact of such notice and hearing shall be entered of record in the Minute Book of Council.

Except in the case of the budget of the city schools, the contemplated expenditure for all purposes as contained in the budget and published under this subsection shall be for informative and fiscal planning purposes only. In no event, including the budget of the city schools, shall such preparation, publication, and, in the case of the budget of the city schools, approval be deemed to be an appropriation. No money shall be paid out or become available to be paid out for any contemplated expenditure unless and until there has first been made a biennial, annual, semiannual, quarterly or monthly appropriation for such contemplated expenditure by council.

(f) The city council may amend its budget from time to time to increase the aggregate amount to be appropriated during the current fiscal year as shown in the currently adopted budget. Further, the council may amend the budget for the second fiscal year of each biennial budget prior to the end of the first fiscal year of the biennial budget.

If any such amendment exceeds one percent of the total revenue shown in the currently adopted budget or the sum of five hundred thousand dollars, whichever is the lesser, it must be accomplished by publishing notice of a meeting and a public hearing once in a newspaper having general circulation in the city at least seven days prior to the meeting date. The notice shall state the intent of the city council to amend the budget and to include a brief synopsis of the proposed budget amendment. The city council may adopt such amendment at the advertised meeting, after first providing a public hearing during such meeting on the proposed budget amendments. (Ord. No. 028-2004, Acts 2005, Ch. 626)

WINCHESTER CODE

SECTION 6. GENERAL POWERS AND DUTIES OF MAYOR.

The mayor shall have, possess and exercise the same rights and powers given him by general law or by special act, except in so far as the same may be amended or modified by the provision of this charter, and in addition thereto, he shall sit as a member of the city council, with the right to vote as such, but the mayor shall not be clothed with any veto authority.

SECTION 7. INVESTIGATIONS BY COUNCIL OR MANAGER.

The council, or the city manager, if so authorized by the council, shall have the right to make such investigations relating to municipal affairs as it may deem necessary, and shall have the power to summon and enforce attending of witnesses, et cetera.

SECTION 8. CHANGE OF CHARTER.

This charter may be changed by a special act of the general assembly of Virginia, by the presentation to the general assembly of an ordinance, regularly passed by the city council by the vote of at least nine of the members elected to the council.

SECTION 9. UTILITIES.

The City shall have the power to furnish all local public service; to purchase, hire, construct, maintain and operate or lease public utilities; to acquire by condemnation or otherwise, within or without the city limits, land and property necessary for such purposes; provided, that the power of condemnation shall not extend to the properties of existing public utilities. And the City shall have full and complete powers to operate any such public utility so acquired so as to enjoy for its citizens fully and completely all benefits to be derived therefrom.

SECTION 10. QUARRIES.

The City shall have authority, through its council or other governing body, to acquire and own land suitable for stone quarries, or the quarry rights in such lands; to take stone therefrom and to manufacture the same into crushed stone for its own use, and shall have further authority to furnish said stone, mix the same with approved material for laying pavements in the City of Winchester, on its own account.

SECTION 11. TRANSFER OF APPROPRIATIONS.

CHARTER

Upon the written recommendation of the city manager, the council may at any time transfer any portion of an unexpended balance of any appropriation to any other purpose or object.

SECTION 12. CITY PLANNING AND ZONING.

The City shall have full and complete powers to pass any ordinances not in conflict with the State laws for planning and zoning the City for any purpose deemed advisable by the city council, as completely as if all such purposes are fully set forth specifically herein.

SECTION 13. FLOATING INDEBTEDNESS.

The city council is authorized to borrow, during each calendar year, to be repaid during said calendar year, not exceeding fifty per centum of the anticipated general revenue for that calendar year for which said borrowing is made. And in this connection, it shall execute its note or notes, payable within the calendar year, signed by the mayor, the president of the city council and the city treasurer.

SECTION 14. ADVISORY COMMITTEE.

The council or the city manager, when so authorized by the council, may appoint a board or committee of citizens to act in an advisory capacity, to act in connection with any municipal activity.

SECTION 14.01. APPOINTMENT AND TERM OF SCHOOL TRUSTEES.

The common council of the City shall on July one, two thousand and four, and continuing thereafter, appoint all school trustees for a term of four years. In the event any vacancy occurs in the school trustees, the council shall fill the vacancy for the unexpired term. The school trustees shall be a continuing body and no measure pending before such body shall abate or be discontinued by reason of the change in terms of the school trustees as provided herein. (Ord. No. 026-2003, 7-8-03) (Acts 2004, Ch. 31)

SECTION 15. BUYING FROM COUNCIL MEMBERS.

Neither the City nor any of its departments shall make any purchases from a city council member unless as a result of competitive sealed bidding where the City Council has established a need for the same or substantially similar goods/services through purchases

WINCHESTER CODE

prior to the election of the council member. However, the council member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the City Council, by written resolution, shall state that it is in the public interest for the council member to bid on such contract.
(Ord. No. 029-2004, 08-10-04, Acts 2005, CH. 626)

SECTION 16. REGULATION OF TRAFFIC, TAXICABS, ETC.

The council shall have full and complete powers to prescribe ordinances for traffic regulations upon the streets and alleys of the City and it shall have full authority by ordinance to require all public conveyances, cabs, buses and trucks, operated by motor or other power, within the City or in and out of the City, to provide terminals at such points as shall meet with the approval of the council and to provide all reasonable regulations governing the same and to pass all regulations deemed necessary and expedient by the city council for the general welfare of the City and its citizens.

SECTION 17. COUNCIL POWERS RELATIVE TO STREETS AND SIDEWALKS.

(a) The council may establish, open, widen, extend, grade, improve, construct, maintain, alter or close public highways and streets and regulate the use thereof. No property within the corporate limits of the City or within three miles of the limits, as now or hereafter established, shall be laid out with streets or alleys thereon, except upon a plan or plat to be submitted to the city manager and approved by the council; provided, however, that any such plans affecting territory more than two miles beyond such corporate limits must be approved by the governing body of the county in which the same is located. Said plat or plan shall, if so approved by the council, be recorded in the clerk's office of the corporation court of the City within sixty days after approval. The council may, after said approval, require the owner to lay out and establish proper building lines on the platted land and to show on the plat that all conveyances of lots shown on the plat are to be made with reference to such building lines, for the benefit of the respective lot owners of the City. The City shall not be liable for any accidents or damages which may occur or be sustained upon any such street, alley, boulevard or way, heretofore or hereafter laid out, until the same has been finally accepted by the council by proper ordinance.

(b) The council shall have the power to cause the footways or sidewalks upon the existing streets of the City to be paved, repaved and repaired, at the expense of the abutting owners or occupiers of the lots or parts of lots; provided the assessment so imposed shall not be in excess of the peculiar benefits resulting therefrom to such abutting landowners; and in case they or either of them shall neglect or refuse to pave, repave or repair the sidewalks when required, it shall be

CHARTER

lawful for the council to have the same paved, repaved or repaired, and to recover the

CHARTER

expense thereof before the trial justice or the corporation court, and in all cases where a tenant is required to pave in front of the property in his or her occupation, the expense of the paving so done shall be a good offset against so much of the rent as he or she shall have paid toward such paving, but no tenant shall be required to pay more for or on account of such paving than such tenant may owe at the time of the commencement of said work, or as may become due to the end of his or her tenancy, provided that no owner, or occupier of a lot or lots in front of which paving is laid shall be required to repave or repair said footways or sidewalks, in whole or in part, at his own expense oftener than once in five years. (Acts 1954, Ch. 85, §1; Acts 1958, Ch. 137, §1)

Editor's note--The corporation court is now the circuit court. The reference to "trial justice" should now read "general district court".

SECTION 18. CERTIFICATES OF DEBT AND CERTIFICATES OF DEBT AND BONDS GENERALLY.

(a) The council may, in the name and for the use of the City, cause to be issued certificates of debt or bonds for any purpose or project set forth in the Public Finance Act, Title 15.1, Chapter 5, §15.1-170, *et seq.* of the Code of Virginia, as amended from time to time, and in compliance with the provisions thereof. All bonds issued pursuant to this section shall be signed by the president of the council and the treasurer of the City and the seal of the City shall be affixed and attested by the clerk of council. Said bonds shall be sold in the manner provided for in the Public Finance Act and the proceeds used for purposes for which issued, under the direction of the council. Every such bond or other obligation issued by the council hereunder shall state on its face for what purpose or purposes it is issued, and the proceeds shall be applied exclusively to the purpose or purposes for which the same are issued. In the issuance of bonds and other interest-bearing obligations, the City shall be subject to the limitations as to amount and the manner of ascertaining such amount limitations as provided in the applicable provisions of Article VII, §10 of the Constitution of the Commonwealth of Virginia of 1971. (Acts 1954, Ch. 85, §1; Acts 1968, Ch. 54, §1.)

(b) Council may provide, by resolution adopted upon the affirmative vote of at least nine members of council, for the submission of the question of the issuance of any such debt to the vote of the qualified voters of the City. The vote of council on a resolution providing for such referendum shall be held, if at all, prior to the adoption by council of the ordinance providing for the issuance of such debt, and no such resolution shall be considered after the adoption of such ordinance. At such election the ordinance of council providing for the issuance of such debt shall be submitted to such voters at an election for such purpose to be called, held and

WINCHESTER CODE

conducted in accordance with the general laws of the Commonwealth. If approved by the voters, the issuance of such debt shall be done in accordance with subsection (a) of this section. (Ord. No. 050-88, 12-13-88.)

Editor's note--Go to bond issues pursuant to the Public Finance Act, see Code of Virginia, §15.1-175, *et seq.*

SECTION 19. REFUNDING BONDS.

The council shall have authority to issue bonds for the purpose of refunding any bonds of the City pursuant to and in compliance with Article 4 of the Public Finance Act, Title 15.1, Chapter 5, §15.1-192, *et seq.* of the Code of Virginia, as amended from time to time. (Ord. No. 050-88, 12-13-88.)

SECTION 20. WORKING PRISONERS.

Subject to the general laws of the State regulating the working of those convicted of offenses against the State, the council shall have the power to provide by ordinance for the employment or the working, either within or without the City limits, or within or without any city prison or jail, of all persons sentenced to confinement in said prison or jail for the violation of the laws of the State of Virginia, or the ordinances of the City of Winchester.

SECTION 21. PENSION FUNDS.

The council of said city shall have authority to establish a fund or funds for the relief or pensions of persons in the service of said city; to receive gifts, devises and bequests of money or property for the benefit of such fund or funds; to make contributions of public monies thereto on such terms and conditions as it may see fit; and to make rules and regulations for the management, investment and administration of such fund or funds.

SECTION 22. ELECTION AND TERM OF TREASURER.

The treasurer of the City of Winchester shall be elected by the voters at large for a period of four years at the general city election, to be held in the year nineteen hundred thirty-three, and each four years thereafter, his term of office to begin on the first of January succeeding his election. (Acts 1975, Ch. 4 §1)

CHARTER

SECTION 23. VACANCIES IN COUNCIL.

Vacancies in the council shall be filled within thirty days from (for) the unexpired term, by a majority vote of the remaining members; provided, however, that if the term of office to be filled does not expire for two years or more after the next regular election following such vacancy and such vacancy occurs in time to permit it, a qualified person shall be elected by the qualified voters of the ward in which the vacancy occurs and shall from and after the date of his qualification succeed such appointee and serve the unexpired term.

State Law Reference -- Court appointments to fill vacancies, Code of Virginia, §24.1-76.

SECTION 24. CIVIL AND POLICE JUSTICE.

The common council of the City of Winchester shall, on or before the first day of July, nineteen hundred and forty-two, elect a civil and police justice for the City of Winchester, for a term ending the thirty-first day of December, nineteen hundred and forty-five, and in the month of December, nineteen hundred and forty-five and every four years thereafter, the common council shall elect a civil and police justice for the City, for a term of four years, beginning the first day of January next succeeding his election.

Such civil and police justice shall have and possess the same powers, authority and jurisdiction as are now, and may hereafter be conferred by law upon and vested in civil and police justices of cities of the first class.

There shall be a substitute civil and police justice and the same shall be appointed by the corporation court for the City of Winchester pursuant to the provisions of general law pertaining to civil and police justices of cities of the first class, who shall have the same powers, authority and jurisdiction as the civil and police justice. (Acts 1940, Ch. 405; Acts 1942, Ch. 474; Acts 1954, Ch. 85, §1)

Editor's note--Sections 24 and 25 should be considered in light of Code of Virginia, Titles 16.1 and 17.

SECTION 25. JUDGE OF THE CORPORATION COURT.

The judge of the corporation court shall have the qualifications of the judges of other corporation courts of cities of the first class, except the judge of the circuit court of Frederick County may, when he resides within the jurisdiction of the corporation court of the City of Winchester, be eligible to hold the office of the judge of said corporation court also, and when the office is so held by said circuit judge the said judge shall receive a salary of eight hundred dollars a year for his service as judge of said corporation court.

WINCHESTER CODE

Editor's note -- See note following §24,

**SECTION 26. CONTINUATION OF ORDINANCES AND STATE ACTS;
APPLICABILITY OF GENERAL LAWS RELATING TO
FIRST CLASS CITIES.**

All ordinances of the City of Winchester and all acts of the general assembly applicable to cities of the first class and not inconsistent with this charter shall remain in full force and virtue and all general laws applicable to cities of the first class and not inconsistent with any of the provisions of this charter or of any ordinances of the City shall be applicable to the City of Winchester, and all general laws of the State of Virginia applicable to cities of the first class shall apply to the City of Winchester as if fully set forth in this charter, except where the same may be inconsistent with the specific provisions of this charter.

CHARTER INDEX BY PAGE NUMBER

A

PAGE NO.

APPROPRIATIONS

Transfer	9
----------------	---

B

BIENNIAL BUDGET	7a
-----------------------	----

BONDS

Certificates of debt and bonds generally	11
--	----

BUILDINGS

Certificates of debt and bonds generally	11
--	----

BUSES

Traffic, taxicabs	
Regulation of	10

C

CHARTER

Change of	
Continuation of ordinances & state acts	
Applicability of general laws relating to first class cities	8

CITY

Licenses	2
City continued as body corporate	1
Enumerated powers not exclusive-Manner of exercising powers	5
Liabilities	1
Name	1
Police powers	5
Powers	1
Property, acquisition for public purposes	
Alternative procedures, condemnation	
Eminent Domain	2
Welfare powers	5

CITY MANAGER	9
--------------------	---

Advisory committee	9
Appointment	7
Appropriations, transfer of	9
Investigations by	8
Powers	7

CITY SERGEANT

Administration of the city	5
----------------------------------	---

WINCHESTER CODE

PAGE NO.

CIVIL AND POLICE JUSTICE

Election	13
----------------	----

COMMISSIONER OF THE REVENUE

Administration of the city	5
----------------------------------	---

COMMON COUNCIL

Advisory committee	9
School trustees	9
Appropriation, transfer of	9
Bonds, refunding	12
Buying from council members	9
City manager	
Appointment, powers, etc.	7
Civil and police justice	13
Debt, bonds	
Certificates of	11
Election	6
Floating indebtedness	9
Investigations by	8
Administration of the city	5
Power and duties	7
Prisoners working	12
Streets and sidewalks	
Council powers relative to	10
Terms	6
Vacancies	13
Vice-mayor	6

CONDEMNATION

Acquisition of property for public purposes	2
---	---

CONSTRUCTION

Certificates of debt and bonds	11
--------------------------------------	----

CORPORATION COURT

Judge	13
-------------	----

COUNCIL.....*See* COMMON COUNCIL

COURT

Clerk	
Administration of the city	5
Judge	13

**CHARTER INDEX
BY PAGE NUMBER**

PAGE NO.

D

DEPARTMENTS AND OTHER AGENCIES OF CITY

Advisory committee.....**9**

DRAINS

Certificates of debt and bonds generally.....**11**

E

ELECTIONS

Civil and police justice

Election**13**

Common Council**6**

Treasurer, election of**12**

EMINENT DOMAIN

Acquisition of property for public purposes**2**

EMPLOYEES *See* OFFICERS AND EMPLOYEES

F

FINANCES

Appropriation, transfer of**9**

Certificates of debt and bonds generally.....**11**

Floating indebtedness**9**

Transfer of appropriations**9**

H

HEALTH AND SANITATION

Police and welfare powers**5**

I

IMPROVEMENTS

Certificates of debt and bonds generally.....**11**

WINCHESTER CODE

PAGE NO.

J

JUSTICE OF THE PEACE

Administration of the city	5
----------------------------------	---

L

LICENSES AND PERMITS

Assessment.....	2
Collection.....	2

M

MANAGER *See CITY MANAGER*

MAYOR

Duties	8
Election	6
Powers.....	8

MOTOR VEHICLES

Traffic, taxicabs	
Regulation of.....	10

MUNICIPALITY

Licenses	2
City continued as body corporate	1
Enumerated powers not exclusive	
Manner of exercising powers.....	5
Liabilities	1
Name	1
Police powers	5
Powers.....	1
Property, acquisition for public purposes	
Condemnation	
Eminent domain	2
Welfare powers	5

O

OFFICERS AND EMPLOYEES

Administration of the city	5
City manager	7

PAGE NO.

CHARTER INDEX

BY PAGE NUMBER

OFFICERS AND EMPLOYEES - continued

City sergeant	
Administration of the city	5
Civil and police justice	13
Commissioner of the revenue	5
Common Council	5
Commonwealth attorney	5
Court clerk	5
Judge of corporation	13
Justice of the peace	5
OFFICERS AND EMPLOYEES - continued	
Officers enumerated.....	5
Pension funds	12
Police justice	5
Treasurer	5
Vice-mayor	6
ORDINANCES	
Continuation.....	14
Police and welfare powers	5

P

PENSIONS AND RETIREMENT

Pension funds	12
PERMITS.....	<i>See</i> LICENSES AND PERMITS
PLANNING	
City planning and zoning	9
POLICE DEPARTMENT	
Police and welfare powers	5
POLICE JUSTICE	
Administration of the city	5
PRISONERS	
Working prisoners.....	12
PROPERTY	
Acquisition of for public purchases	2
PUBLIC CONVEYANCES	
Traffic, taxicabs	
Regulation of.....	10
PUBLIC IMPROVEMENTS	
Certificates of debt and bonds generally.....	11
PURCHASING	
Buying from councilmen	10

PAGE NO.

WINCHESTER CODE

Q

QUARRIES	
Generally	8

R

RETIREMENT	<i>See</i> PENSIONS AND RETIREMENT
------------------	------------------------------------

S

SAFETY	
Police and welfare powers	5
SCHOOL TRUSTEES	
Appointment	9
Term	9
SERGEANT	<i>See</i> CITY SERGEANT
SEWERS	
Certificates of debt and bonds generally	11
SIDEWALKS	<i>See</i> STREETS AND SIDEWALKS
STATE ACTS	
Continuation	14
STREETS AND SIDEWALKS	
Certificates of debt and bonds generally	11
Council powers relative to	10

T

TAXATION	
Assessment	2
Collection	2
TAXICABS	
Regulation of	10
TRAFFIC	
Regulation of	10
TREASURER	
Election	12
Administration of the city	6
Term	12

PAGE NO.

CHARTER INDEX
BY PAGE NUMBER

TRUCKS

Traffic, taxicabs	
Regulation of.....	10

U

UTILITIES

Generally	8
-----------------	----------

V

VEHICLES	<i>See</i> MOTOR VEHICLES
----------------	---------------------------

VICE-MAYOR

Office	6
--------------	----------

W

WELFARE

City welfare powers	5
Police and welfare powers	5

Z

ZONING

City planning and zoning	9
--------------------------------	----------